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8 Attorneys for Plaintiff  
REALNETWORKS, INC.

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

14 APPLE COMPUTER, INC.,

15 Plaintiff,

16 v.

17 BURST.COM, INC.,

18 Defendant.

Case No. 06-CV-00019 MHP

Case No. 08-CV-0023 WDB

**STIPULATION IN SUPPORT OF  
ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER CASES SHOULD  
BE RELATED PURSUANT TO CIVIL  
LOCAL RULES 3-12, 7-11 AND 7-12**

22 REALNETWORKS, INC.,

23 Plaintiff,

24 v.

25 BURST.COM, INC.,

26 Defendant.

1           1.       The parties make this stipulation in support of Plaintiff RealNetworks, Inc.'s  
2 ("RealNetworks") administrative motion to consider whether the above-captioned cases should  
3 be related pursuant to Civil Local Rules 3-12 and 7-11.

4           2.       The pending case, *RealNetworks, Inc. v. Burst.com, Inc.*, Case No. 08-CV-0023  
5 WDB ("RealNetworks Litigation"), was filed on January 3, 2008. The RealNetworks Litigation  
6 was assigned to Magistrate Judge Wayne D. Brazil.

7           3.       Defendant Burst.com, Inc. was a party in a recently-terminated declaratory  
8 judgment patent action and damages counter-action filed in the United States District Court for  
9 the Northern District of California captioned *Apple Computer, Inc. v. Burst.com, Inc.*, Case No.  
10 06-CV-00019 MHP ("Apple Litigation"). Judge Marilyn Hall Patel presided in the Apple  
11 Litigation, which was settled and dismissed on December 4, 2007.

12           4.       The RealNetworks Litigation and Apple Litigation "concern substantially the  
13 same parties, property, transaction or event," and "it appears likely that there will be an unduly  
14 burdensome duplication of labor and expense or conflicting results if the cases are conducted  
15 before different Judges." Civil L.R. 3-12(a). These cases both include declaratory judgment  
16 patent actions seeking a judgment of non-infringement, patent invalidity and/or patent  
17 unenforceability of the same patents -- U.S. Patent Nos. 4,963,995 ("995 patent"), 5,164,839  
18 ("839 patent"), 5,995,705 ("705 patent"), and 5,057,932 ("932 patent"). Burst.com, Inc. is or  
19 was the declaratory judgment defendant and purported owner of the patents-in-suit in both cases,  
20 as well as having been the damages counter-plaintiff in the Apple Litigation. Judge Patel  
21 conducted a Markman Hearing, construed the patents-in-suit, issued a Claim Construction Order,  
22 and decided summary judgment motions regarding patent invalidity concerning the patents-in-  
23 suit in the Apple Litigation.

24           5.       For the reasons set forth above, it appears likely that there will be an undue  
25 duplication of judicial resources and potentially conflicting results if the pending RealNetworks  
26 Litigation is conducted before a different judge than presided in the Apple Litigation.

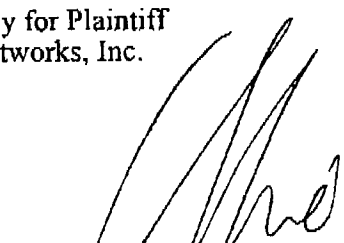
1           6.       RealNetworks and Burst.com stipulate that the RealNetworks Litigation is related  
2 to the Apple Litigation under Local Rule 3-12, and respectfully request that the Court direct the  
3 Clerk to reassign the RealNetworks Litigation pursuant to Local Rule 3-12(f)(3) to Judge Patel.  
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5  
6 DATED: January 10, 2008

  
Korula Cherian

8 Attorney for Plaintiff  
9 RealNetworks, Inc.

10  
11 DATED: January 10, 2008

  
Spencer Hosie

13 Attorney for Defendant  
14 Burst.com, Inc.  
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